
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Howard Payne University

Licensee of KHPU

Facility ID #78801

Brownwood, Texas

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File No. EB-04-DL-046

NOV No. V20043250005

NOTICE OF VIOLATION

Released: June 14, 2004

By the District Director, Dallas Office, Enforcement Bureau:

1. This is a Notice of Violation ("Notice") issued pursuant to Section 1.89 of the Commission's Rules,¹ to Howard Payne University, licensee of FM Educational Broadcast station KHPU in Brownwood, Texas.

2. On February 18, 2004, an agent of the Commission's Dallas Office inspected radio station KHPU, licensed to serve Brownwood, Texas, and observed the following violations:

a) 47 C.F.R. § 11.35(a): "Equipment operational readiness. ...Broadcast stations...are responsible for ensuring that EAS Encoders, EAS Decoders and Attention Signal generating and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation. Additionally, broadcast stations...must determine the cause of any failure to receive the required tests or activations specified in §§ 11.61(a)(1) and (2). Appropriate entries must be made in the broadcast station log as specified in § 73.1820 and § 73.1840 of this chapter ... indicating reasons why any tests were not received." No entries were made in KHPU's station logs to indicate why records were absent in the logs for the reception of the required second monitored source.

b) 47 C.F.R. § 11.52(d): "Broadcast stations and cable systems and wireless cable systems must monitor two EAS sources. The monitoring assignments of each broadcast station and cable system and wireless cable system are specified in the State EAS Plan and FCC Mapbook. They are developed in accordance with FCC monitoring priorities." At the time of the inspection, only one of the three EAS receivers in the system was properly functioning.

¹ 47 C.F.R. § 1.89

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c) 47 C.F.R. § 73.1870(c)(3): “Chief operators. ...The chief operator is responsible for completion of the following duties specified in this paragraph below. When the duties are delegated to other persons, the chief operator shall maintain supervisory oversight sufficient to know that each requirement has been fulfilled in a timely and correct manner...Review of the station records at least once each week to determine if required entries are being made correctly...Upon completion of the review, the chief operator or his designee must date and sign the log, initiate any corrective action which may be necessary, and advise the station licensee of any condition which is repetitive...” On February 18, 2004, a review of the EAS logs indicated there were repetitive violations which continued through the time of the inspection with no apparent corrective action.

d) 47 C.F.R. § 73.3527(c)(1): The station’s public inspection file shall be available for public inspection at any time during regular business hours. On February 18, 2004, the following required items of the public file were not available for inspection: Current copy of Public and Broadcasting, List of Donors supporting specific programs and Issues / Programs lists.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,² and Section 1.89 of the Commission's Rules, Howard Payne University, must submit a written statement concerning this matter within 20 days of release of this Notice. The response must fully explain each violation, must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and should include a time line for completion of pending corrective action(s). The response must be complete in itself and signed by a principal or officer of the licensee with personal knowledge of the matter. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Dallas Office
9330 LBJ Freeway, #1170
Dallas, Texas 75243

4. Failure to respond to this Notice constitutes a separate violation that could result in additional penalties, including monetary forfeiture.

5. The Privacy Act of 1974³ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure your compliance. Any false statement made knowingly and willfully in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁴

² 47 U.S.C. 308(b)

³ P.L. 93-579, 5 U.S.C. § 552a(e)(3)

⁴ 18 U.S.C. § 1001 *et seq*

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6. This Notice shall be sent to Howard Payne University, 1000 Fisk Avenue, Brownwood, Texas 76801.

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James D. Wells
District Director
Dallas Office

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